

Message Text

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ACTION L-03

INFO OCT-01 NEA-10 ISO-00 CA-01 SCS-06 JUSE-00 /021 W
-----120802 241520Z /43

R 241411Z MAR 78
FM AMEMBASSY TEL AVIV
TO SECSTATE WASHDC 2158
INFO AMCONSUL JERUSALEM

UNCLAS SECTION 1 OF 2 TEL AVIV 4050

E. O. 11652: NA
TAGS: PDIP IS
SUBJ: EXTRADITION OF FRANK H KLEIN

REF.: TEL AVIV 3584

1. MINISTRY OF JUSTICE ATTORNEY, DANIELA GORNI, IN
REVIEWING DOCUMENTS ACCOMPANYING REQUEST FOR KLEIN'S
EXTRADITION, HAS REQUESTED ADDITIONAL INFORMATION AND
EVIDENCE IN ACCORDANCE WITH PARA 12 OF THE
EXTRADITION TREATY.

2. MRS GORNI SUGGESTS THAT SHOULD MR TRITZ, WHO APPEARS TO
BE THE OFFICER RESPONSIBLE FOR PREPARING DOCUMENTATION
ACCOMPANYING THE EXTRADITION REQUEST, HAVE ANY QUESTIONS
CONCERNING THE ADDITIONAL EVIDENCE SOUGHT, HE SHOULD NOT
HESITATE TO COMMUNICATE WITH HER THROUGH THE EMBASSY.

3. MRS GORNI'S MEMO INFORMALLY TRANSLATED READS AS FOLS:

QUOTE: SUBJECT: U S REQUEST FOR EXTRADITION OF FRANK H KLEIN.

DEAR SIRS:

A) WE HAVE EXAMINED THE SUBJECT EXTRADITION REQUEST, AND
HAVE COME TO THE CONUSION THAT WE REQUIRE
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ADDITIONAL INFORMATION AND EVIDENCE IN ORDER TO
CONTINUE PROCEEDINGS REGARDING IT.

B) AS EXPLICITLY MENTIONED IN THE REQUEST IN THE AFFIDAVIT
OF MR JERRY L TRITZ, THE MATERIAL PRESENTED TO US IS ONLY
PARTIAL, AND NOT INTENDED TO PROVE EACH AND EVERY
ELEMENT IN THE INDICTMENT OF KLEIN, BUT ONLY TO SHOW THAT

THE WANTED PERSON COMMITTED OFFENCES SUFFICIENT FOR HIS EXTRADITION TO THE U S.

C) KLEIN WAS INDICTED BY THE GRAND JURY ON SEVERAL COUNTS OF GRAND LARCENY, IN THAT HE FRAUDULENTLY RECEIVED SUMS OF MONEY WHICH WERE NOT DUE TO HIM. THE TOTAL SUM OF THE LARCENY IN EACH INDICTMENT CONSISTS OF SEVERAL DISCOUNTS WHICH WERE GIVEN TO FAIRVIEW NURSING HOME UNDER HIS MANAGEMENT, BY VARIOUS SUPPLIERS.

THE MATERIAL CONTAINED IN THE REQUEST REFERS TO ONLY PART OF THE SUMS WHICH CONSTITUTE THE INDICTMENT, AND THEY ARE THE SUMS OF THE DISCOUNTS WHICH WERE GIVEN BY DELAWARE FARMS INC. AND FOUR LAUNDRY SERVICE CORPORATIONS UNDER MANAGEMENT OF EDGAR WEINSTEIN. THE EXTRADITION OF KLEIN, CAN, THEREFORE, BE CARRIED OUT IN ANY EVENT, ONLY WITH REGARD TO THESE SUMS.

IN LIGHT OF PARAGRAPH 13 OF THE EXTRADITION TREATY BETWEEN THE U S AND ISRAEL, IT WILL THEREFORE NOT BE POSSIBLE TO PUT KLEIN ON TRIAL IN THE U S WITH REGARD TO THE REST OF THE SUMS WHICH MAKE UP THE LARCENY, THAT IS TO SAY IN SO FAR AS IT APPLIES TO THE SUMS OF DISCOUNTS WHICH KLEIN RECEIVED FROM THE OTHER SUPPLIERS WHO ARE MENTIONED IN THE INDICTMENT.

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HE CAN ONLY BE CHARGED WITH LARCENY OF THE REFUNDS FOR THE DISCOUNTS FROM THE DELAWARE CORPORATION AND MR WEINSTEIN'S CORPORATIONS. THESE SUMS CONSTITUTE ONLY A SMALL PART OF THE TOTAL SUMS SET FORTH IN THE INDICTMENT.

D. WITH RESPECT TO RECEIPTS OF REFUNDS FOR DISCOUNTS FROM DELAWARE CORPORATION AND MR WEINSTEIN'S CORPORATIONS, THE REQUEST DOES NOT CONTAIN SUFFICIENT EVIDENCE.

E. THE DOMESTIC LAW OF ISRAEL REGARDING EXTRADITION- THE EXTRADITION LAW, 1954, PROVIDES THAT BEFORE A WANTED PERSON CAN BE EXTRADITED TO THE REQUESTED STATE, A PETITION MUST BE ADDRESSED TO THE COURT TO DECLARE THAT THE WANTED PERSON IS EXTRADITABLE. AND IN ORDER THAT A WANTED PERSON BE DECLARED EXTRADITABLE, IT MUST BE ESTABLISHED TO THE COURT THAT THERE IS EVIDENCE WHICH WOULD BE SUFFICIENT TO BRING HIM TO TRIAL FOR SUCH AN OFFENCE IN ISRAEL.

F. THE OFFENCES ATTRIBUTED TO KLEIN ARE GRAND LARCENY BY THE AUTHORITIES OF THE STATE OF NEW YORK, CITY OF NEW YORK, AND OTHER BODIES, AND THEY WERE COMMITTED AS ALLEGED, BY FALSE REPORTING IN THE FORMS FOR REFUND OF EXPENSES

(HE-2P-FORMS) WHICH KLEIN SUBMITTED TO THOSE AUTHORITIES,
AND RECEIPT OF THE REFUNDS FROM THEM. THE REPORTING
WAS FALSE IN THAT THERE WAS NO LISTING OF THE DISCOUNTS
WHICH KLEIN RECEIVED FROM THE SUPPLIERS.

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ACTION L-03

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R 241411Z MAR 78
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THE

EVIDENCE CONTAINED RELATES ONLY TO ARRANGEMENTS WHICH
KLEIN HAD WITH THE SUPPLIERS IN ACCORDANCE WITH WHICH HE
WAS GIVEN REDUCTIONS IN THE CHARGES OF THE SERVICES
SUPPLIED, AND THE DIFFERENCE BETWEEN THE DECLARED
PRICE AND THE PRICE ACTUALLY PAID WAS IN FACT TRANSFERRED TO
PARTIES DESIGNATED BY KLEIN. THIS EVIDENCE IS
SUFFICIENT TO PROVE THAT HE WAS GIVEN DISCOUNTS AND THAT
THE DECLARED PRICE WAS NOT THE PRICE THAT WAS IN FACT PAID.
HOWEVER, THEY ARE NOT SUFFICIENT TO PROVE THE ESSENCE, TO
WIT THE ACTS WHICH CONSTITUTE THE OFFENCES IN THE INDICTMENT.
THE LISTING OF FALSE DETAILS ON THE FORMS, THE SUBMISSION
OF THOSE FORMS AND RECEIPT OF REFUNDS OF EXPENSES THEREUNDER.
WITHOUT ACTS WHICH CONSTITUTE THE OFFENCES IT IS DIFFICULT
TO SEE THE POSSIBILITY OF AN ISRAEL COURT DECLARING KLEIN AS
SUBJECT TO EXTRADITION AT ALL, INCLUDING CHARGES WITH
RESPECT TO THE DELAWARE CHAPTER AND THE LAUNDRY CORPORATIONS.
IN ORDER TO PERMIT US TO MEET THE REQUIREMENTS OF THE
EXTRADITION LAW, IT IS NECESSARY TO HAVE EVIDENCE TO PROVE ALL
OF THESE, E.G. TESTIMONY FROM THE OFFICIAL OF THE GOVERNMENT
AUTHORITY WHICH PAID THE MONEY TO KLEIN, STATING THAT ALL OF
THE FORMS MENTIONED IN THE INDICTMENT WERE IN FACT SUBMITTED
TO THE SAID AUTHORITY, HE MUST NOTE WHO SUBMITTED THEM, WHEN,
WHO SIGNED THEM, WHICH PARTICULAR IS FALSE AND HOW EXACTLY
IT IS FALSE. IN ADDITION, BASED ON THESE FORMS AND THE
FALSE DETAILS, HE MUST STATE THAT THE AUTHORITY MADE THE
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REFUNDS IN THE AMOUNT WHICH WAS PAID. IT IS ESSENTIAL THAT THERE BE EVIDENCE WHICH LINKS KLEIN EXPLICITLY TO EACH OF THE ACTS AND RECEIPT OF THE MONEY IN ACCORDANCE WITH THE FORMS SUBMITTED. THE EVIDENCE MUST BE FROM A DIRECT SOURCE, OF COURSE, SINCE HERESAY, EVIDENCE IS NOT ADMISSIBLE IN ISRAEL.

G. ALSO THE PETITION DOES NOT STATE WHAT ARE THE LAWS, AND THE PARAGRAPHS OF THE SAID LAWS, WHICH ESTABLISH THE OFFENCES IN THE INDICTMENT AND THE PENALTIES ACCRUED. THE ATTACHED PHOTOCOPIES OF LAWS AND REGULATIONS, AS IS STATED IN THE ATTACHED AFFIDAVIT (SIGNED BY MR TRITZ) ARE THE LAWS APPLICABLE TO THE MATTER WHICH IS THE SUBJECT OF THE PETITION; BUT WE WISH TO KNOW, FIRSTLY, WHAT IS THE SOURCE, AND ALSO THE NAMES OF THE LAWS APPEARING THEREIN AND THEIR CATEGORIES (LAWS OF THE STATE OF NEW YORK? FEDERAL?). WE ALSO WISH TO BE REFERRED SPECIFICALLY TO ALL OF THE CLAUSES WHICH DEFINE THE THREE TYPES OF OFFENCES CONTAINED IN THE INDICTMENT AND WHICH DETERMINE THE PENALTIES THEREFOR.

IN ACCORDANCE WITH PARA 10 OF THE TREATY WE REQUEST TO BE REFERRED TO THE LAW, THE STATUTE OF LIMITATION FOR LEGAL PROCEEDINGS OR FOR THE ENFORCEMENT OF THE PENALTY FOR THE OFFENCE.

WE SHALL BE PLEASED TO ASSIST IN ADDITIONAL CLARIFICATIONS AS REQUESTED IN ORDER TO CARRY OUT THE DETAILS IN THIS DOCUMENT.
SGD. DANIELA GORNI
DEPUTY STATE ATTORNEY

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Message Attributes

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TAGS: PDIP, IS, (KLEIN, FRANK H)
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